IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 3780 of 2007(Y)

PETITIONER:

P.K.JANU AMMA, W/O. LATE APPU NAIR,
PEEDIKAKANDI VEEDU, P.O.PAVANGODE,
KOZHIKODE DISTRICT.

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS:

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1. THE SECRETARY,
KOZHIKODE PRIMARY CO-OPERATIVE AGRICULTURE
RURAL DEVELOPMENT BANK LTD.NO.4362,
P.O.PUTHIYARA, KOZHIKODE-4.

2. THE SENIOR INSPECTOR/SPECIAL SALES
OFFICER, KOZHIKODE PRIMARY CO-OPERATIVE
AGRICULTURE RURAL DEVELOPMENT BANK LTD.NO.4362,
P.O.PUTHIYARA, KOZHIKODE-4.

BY ADV. SRI.THOMAS ANTONY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 3780/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE SALE NOTICE DATED 08/12/2006.

P2 : COPY OF THE AGREEMENT FOR SALE EXECUTED BETWEEN THE PETITIONER AND SHRI.MANOJ DATED 21/1/2007.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 3780 of 2007 Y

Dated, this the 2nd day of April, 2007

J U D G M E N T

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 1st respondent.

2. Petitioner borrowed funds from the 1st respondent and committed default. However, loan is covered by adequate security which consists of 83 cents of land and a house thereon. The learned counsel for the petitioner contended that petitioner has entered into an agreement for sale of part of the mortgaged property and with the sale proceeds, petitioner will be able to settle the loan arrears. On going through Ext.P2, I feel that it is a genuine document. In the circumstance and since the last date of execution of sale deed is 01/08/2007, WP(C) is disposed of granting time to the petitioner till 01/08/2007 to settle liability. Even though, the 1st respondent demanded further payment, I do not think petitioner can demand any funds out of sale proceeds under agreement which does not provide for any more payment until the date of execution of sale deed. In the circumstance,

respondents are directed to withhold recovery proceedings until 01/08/2007 and permit the petitioner to settle liability immediately thereafter. Eligible incentives should be granted to the petitioner under Government Orders or instruction for the settlement of arrears. However, if the petitioner does not settle liability by 01/08/2007, the Bank is free to sell the entire mortgaged property and recover the arrears.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg